

2004

# Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions.

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# BALLOT MEASURE SUMMARY

PROP

67

## Emergency Medical Services. Funding. Telephone Surcharge. Initiative Constitutional Amendment and Statute.

### Summary

Increases telephone surcharge and allocates other funds for emergency room physicians, hospital emergency rooms, community clinics, emergency personnel training/equipment, and 911 telephone system. Fiscal Impact: Increased state revenues of about \$500 million annually to reimburse physicians and hospitals for uncompensated emergency medical services and other specified purposes. Continues \$32 million in state funding for physicians and clinics for uncompensated medical care.

### What Your Vote Means

#### Yes

A **YES** vote on this measure means: The state would impose a 3 percent emergency telephone surcharge, in addition to the existing surcharge, on bills for telephone services for calls made within the state. These revenues would be used to provide additional funds to reimburse physicians and hospitals for uncompensated emergency and trauma care and to fund other specified programs.

#### No

A **NO** vote on this measure means: The emergency telephone number surcharge would continue to be limited to 0.75 percent on bills for telephone services for calls made within the state. Additional funding to reimburse physicians and hospitals for uncompensated emergency and trauma care, or for other specified programs, would continue to depend largely upon action by the Legislature and Governor.

### Arguments

#### Pro

**FIREFIGHTERS, PARAMEDICS, DOCTORS, AND NURSES SAY:** PROP. 67 will make sure emergency medical care is available when you and your family need it most. Emergency rooms are closing. Others are severely overcrowded. Paramedics, emergency room doctors, and nurses are overwhelmed. **SAVE EMERGENCY CARE. SAVE LIVES. YES ON PROP. 67.**

#### Con

Prop. 67 is a \$540 million phone tax—a tax on talking. There's no cap on cell phone or business phone taxes. More than 1 million seniors will be affected. 90% of the money goes to large health care corporations and special interests—with no mandatory audits or financial controls.

### For Additional Information

#### For

Coalition to Preserve Emergency Care, sponsored by firefighters, paramedics, doctors, nurses, and healthcare providers  
—Yes on 67  
191 Ridgeway Avenue  
Oakland, CA 94611  
650-306-0495  
info@saveemergencycare.org  
www.saveemergencycare.org

#### Against

No on 67—Californians to Stop the Phone Tax  
916-930-0688  
www.stopthephonetax.com

PROP

68

## Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions. Initiative Constitutional Amendment and Statute.

### Summary

Authorizes tribal compact amendments. Unless tribes accept, authorizes casino gaming for sixteen non-tribal establishments. Percentage of gaming revenues fund government services. Fiscal Impact: Increased gambling revenues—potentially over \$1 billion annually—primarily to local governments for additional specified services. Depending on outcome of tribal negotiations, potential loss of state revenues totaling hundreds of millions of dollars annually.

### What Your Vote Means

#### Yes

A **YES** vote on this measure means: Slot machines would be authorized at 16 specific racetracks and card rooms, unless all Indian tribes with existing tribal-state gambling compacts agree to certain terms within 90 days. Under either scenario, local governments throughout the state would receive new gambling revenues, to be used primarily for additional child protective, police, and firefighting services.

#### No

A **NO** vote on this measure means: Slot machines would not be authorized at racetracks and card rooms. Indian tribes would continue to be subject to current tribal-state gambling compacts. Local governments would not receive new gambling revenues.

### Arguments

#### Pro

Proposition 68 means California's immensely profitable Indian Casinos should pay their fair share to support local services. Indian Casinos choose to make a 25% contribution and live by the same regulations that affect us all or the state will authorize limited competition with an even bigger return to communities.

#### Con

Beware: Their "fair share" claim is a scam. 68 lets its **FUNDERS—RACETRACKS and CARD CLUBS—operate LAS VEGAS-SIZED CASINOS throughout California—NEAR FREEWAYS and 200 SCHOOLS. MORE TRAFFIC. MORE CRIME. ANOTHER BROKEN PROMISE TO INDIANS.** Governor Schwarzenegger, firefighters, sheriffs, police, tribes, taxpayers, labor, educators say: "NO on 68!"

### For Additional Information

#### For

Sheriff Lee Baca and Sheriff Lou Blanas  
A Fair Share for California  
1717 I Street  
Sacramento, CA 95814  
916-551-2538  
info@fairshareforcalifornia.org  
www.fairshareforcalifornia.org

#### Against

No on 68: Californians Against the Deceptive Gambling Proposition  
11300 W. Olympic Blvd., Suite 840  
Los Angeles, CA 90064  
800-420-8202  
info@stop68.com  
www.Stop68.com

# NON-TRIBAL COMMERCIAL GAMBLING EXPANSION. TRIBAL GAMING COMPACT AMENDMENTS. REVENUES, TAX EXEMPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

## OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

### Non-Tribal Commercial Gambling Expansion. Tribal Gaming Compact Amendments. Revenues, Tax Exemptions. Initiative Constitutional Amendment and Statute.

- Authorizes Governor to negotiate tribal compact amendments requiring that Indian tribes pay 25% of slot machine/gaming device revenues to government fund, comply with multiple state laws, and accept state court jurisdiction.
- If compacted tribes don't unanimously accept required amendments within 90 days, or if determined unlawful, authorizes sixteen specified non-tribal racetracks and gambling establishments to operate 30,000 slot machines/gaming devices, paying 33% of net revenues to fund government public safety, regulatory, social programs.
- Provides exemption from specified state/local tax increases.

### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased gambling revenues—potentially over \$1 billion annually. The revenues would be provided primarily to local governments throughout the state for additional child protective, police, and firefighting services.
- Depending on outcome of tribal negotiations, potential loss of state revenues totaling hundreds of millions of dollars annually.

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

The California Constitution and state statutes specify the types of legal gambling that can occur in California. For instance, current law allows wagering on horse races and certain games in licensed card rooms. In addition, Indian tribes with tribal-state gambling compacts can operate slot machines and certain other casino-style gambling in California.

#### Card Rooms and Horse Racing

**Card Rooms.** The state allows card rooms to conduct card games where the card room operator has no stake in the outcome of the game. The players play against each other and pay the card room a fee for the use of the facilities. Typical card games include draw poker, 7-card stud, and poker pai gow. Certain games—such as twenty-one—are prohibited. There are 96 licensed card rooms in the state. Local governments approve card rooms, as well as establish the hours of operation, the number of tables, and wagering limits. Current state

law limits the expansion of both the number of card rooms and the size of existing card rooms until January 2010.

**Horse Racing.** The state issues licenses to racing associations that then lease tracks for racing events. In California, there are 6 privately owned racetracks, 9 racing fairs, and 20 simulcast-only facilities. (These latter facilities do not have live racing; instead, they allow betting on televised races occurring elsewhere in the world.)

#### Gambling on Indian Land

Federal law and the State Constitution govern gambling operations on Indian land. Tribes that enter into a tribal-state gambling compact may operate slot machines and engage in card games where the operator has a stake in the outcome, such as twenty-one. Currently, 64 tribes have compacts and operate 53 casinos with a total of more than 54,000 slot machines. Any new or amended compact must be approved by the

NON-TRIBAL COMMERCIAL GAMBLING EXPANSION.  
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PROP

68

## ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

Legislature, the Governor, and the federal government. As sovereign nations, tribes are largely exempt from state and local taxes and laws, including California environmental laws.

**1999 Compacts.** Most tribes signed their current compacts in 1999. Under these compacts, a tribe may operate up to two facilities and up to a total of 2,000 slot machines. In exchange, tribes make some payments to the state which can only be used for specified purposes (such as for making payments to tribes that either do not operate slot machines or operate fewer than 350 machines). These payments total over \$100 million annually. Under these compacts, tribes are required to prepare an environmental study analyzing the impact on the surrounding area of any new or expanded gambling facility. These compacts will expire in 2020.

**2004 Compacts.** In the summer of 2004, five tribes signed amendments to their compacts, and these revised agreements were approved by the state. Under these new agreements, these tribes may operate as many slot machines as they desire. In exchange, tribes make a specified payment annually to the state, with additional payments for each slot machine added to their facilities. As additional tribes sign similar compacts, payments to the state are expected to total in the hundreds of millions of dollars annually. Unlike the payments required by the 1999 compacts, the state can use these payments for any purpose. The newer compacts also require the tribes to (1) prepare more detailed environmental studies; (2) negotiate with local governments regarding payments addressing the impacts of new gambling facilities on the local communities; and (3) follow other provisions related to patron disputes, building codes, and labor relations. These new agreements expire in 2030, ten years later than the 1999 compacts.

### PROPOSAL

This measure, which amends the State Constitution and state statutes, sets up two possible scenarios regarding new state gambling revenues.

- The first scenario would occur only if all Indian tribes with compacts agree to specified revisions to their existing compacts.
- The second scenario would be triggered if the tribes do not agree to the revisions. In this case, 5 existing racetracks and 11 existing card rooms would be allowed to operate slot machines.

These two scenarios are discussed below.

### Revision of Current Tribal-State Compacts

Under the first scenario, all compact tribes would be required to agree with the Governor to terms required by this measure within 90 days of its passage. Specifically, the measure requires that all tribes with compacts agree to (1) pay 25 percent of their “net win” to the Gaming Revenue Trust Fund (GRTF, a state fund established by the measure) and (2) comply with certain state laws, including those governing environmental protection, gambling regulation, and political campaign contributions. Net win is defined as the wagering revenue from all slot machines operated by a tribe after prizes are paid out, but prior to the payment of operational expenses. Under federal law, the federal government would have to approve the revised agreements.

### Expansion of Gambling if Compacts Are Not Revised

As noted above, if the current compacts are not revised under the first scenario, the measure would allow slot machines on non-Indian lands. Specifically, under the second scenario, the measure allows specified racetracks and card rooms located in Alameda, Contra Costa, Los Angeles, Orange, San Diego, and San Mateo Counties to operate up to 30,000 slot machines (see Figure 1). The measure would allow the sale or sharing of slot machine licenses in certain circumstances. The measure also makes permanent the limit on the expansion of both the number of card rooms and the size of existing card rooms (due to expire in January 2010 under current law).

**Net Win Payments.** Racetracks and card rooms would pay 30 percent of the net win from their slot machines to the GRTF. They would also pay 2 percent of their net win to the city and 1 percent to the county in which the gambling facility is located. The measure specifies that the payments to the GRTF be in place of any state or local gambling-related taxes or fees enacted after September 1, 2003.

The five racetracks also would be required to pay annually an additional 20 percent of the net win on their slot machines. These funds would be administered by the California Horse Racing Board and used to benefit the horse racing industry, including the increase of race purses.

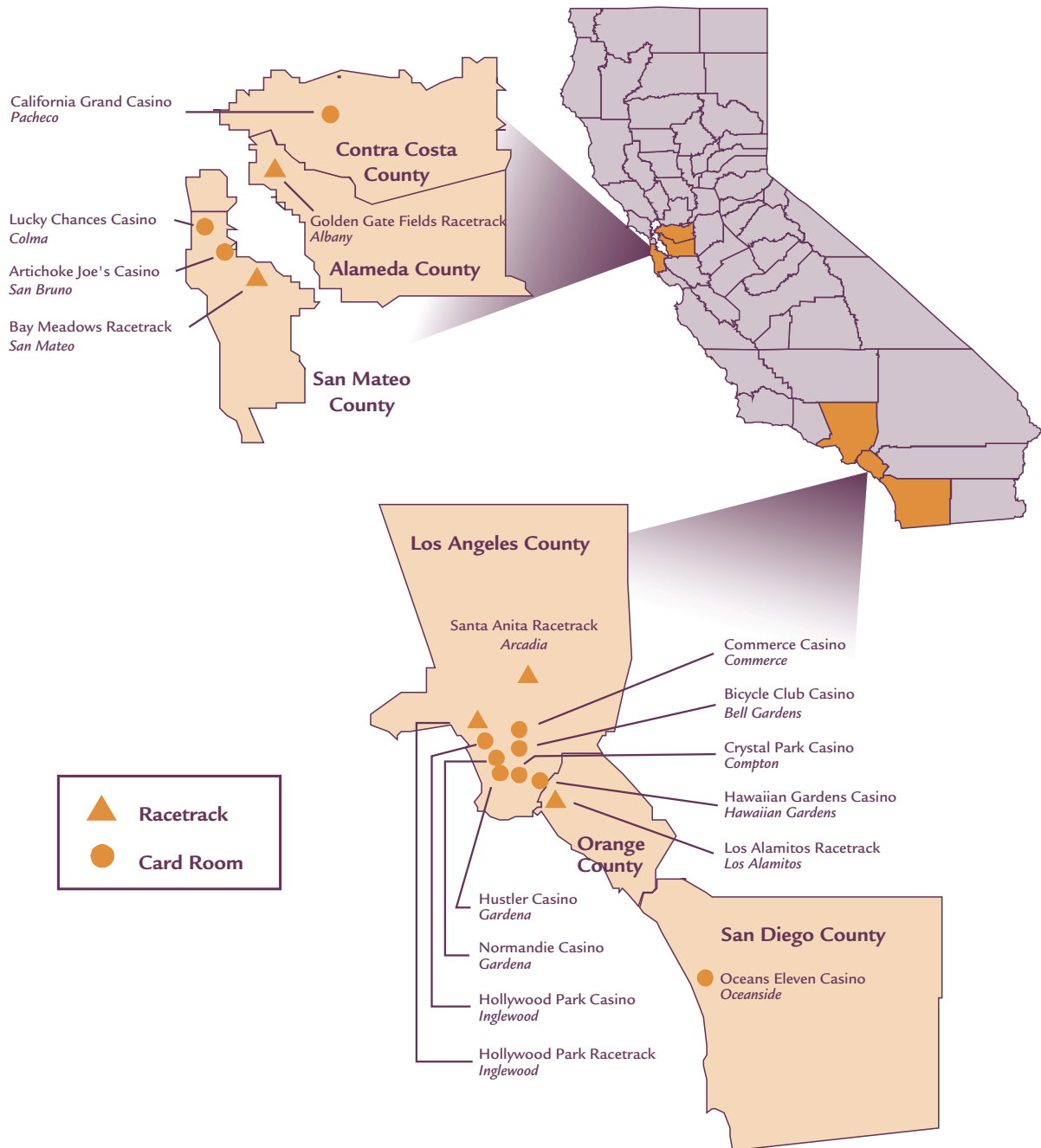
### Distribution of Gambling Revenues

Payments based on net win would be made to the GRTF under either scenario—whether tribes revised their compacts or racetracks and card rooms operated slot machines. In either case, slot machine operators

## ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

FIGURE 1

Sites for Slot Machines at Racetracks and Card Rooms<sup>a</sup>



<sup>a</sup> Under measure's second scenario (see text).



## ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

would be required to pay for annual audits of their reported net win and payments made to the GRTF. The measure establishes a five-member board appointed by the Governor to administer the GRTF. Figure 2 describes how funds in the GRTF would be distributed. The bulk of the funds would be distributed to local governments throughout the state for additional child protective, police, and firefighting services.

FIGURE 2

### DISTRIBUTION OF FUNDS FROM THE GAMING REVENUE TRUST FUND

- ✓ First, payments would be made for three specific purposes:
  - Up to 1 percent of the funds for administrative costs of the initiative.
  - \$3 million annually for “responsible gambling” programs.
  - Supplemental payments to tribes that do not operate slot machines or operate fewer than 350 machines.
- ✓ Second, remaining funds would be distributed to local governments throughout the state as follows:
  - 50 percent would be allocated to counties to provide services for abused and foster care children. The amount allocated to a county would be based on the number of child abuse referrals.
  - 35 percent to local governments (based on population) for additional sheriffs and police officers.
  - 15 percent to local governments (based on population) for additional firefighters.

The measure also specifies that these funds could not replace funds already being used for the same purpose.

### Related Provisions in Proposition 70

Proposition 70 on this ballot also contains provisions affecting the number of slot machines authorized in the state. That measure would allow tribes entering a new or amended compact to expand the types of games authorized at casinos. It would also eliminate the existing limits on the number of slot machines and facilities a tribe can operate. In exchange for the exclusive right to these types of gambling, tribes would pay the state a percentage of their net income from gambling activities. The State Constitution provides that if the provisions of two approved propositions are in conflict, only the provisions of the measure with the higher number of yes votes at the statewide election take effect.

### FISCAL EFFECT

The fiscal effect of the measure on state and local governments would depend on whether current compacts are revised or if racetracks and card rooms operate slot machines. The fiscal effect under each scenario is discussed below.

#### Revision of the Current Tribal-State Compacts

**Net Win Payments.** While tribes do not publicly report information on their slot machine revenues, it is

estimated that the machines are generating net win of over \$5 billion annually in California. If the tribes agree to this measure’s provisions, tribes would pay 25 percent of their slot machines’ net win to the GRTF—potentially over \$1 billion annually. These payments would be provided primarily to local governments to increase funding for child protective, police, and firefighting services.

**Existing Payments to the State.** As described above, tribes under the 1999 and 2004 compacts pay hundreds of millions of dollars annually to the state for both specific and general purposes. This measure does not specifically address whether these payments would continue or cease under the compact revision process. As a result, it appears that the continuation of the payments would be subject to negotiation between the tribes and the Governor. If the revised compacts do not include a continuation of these payments, the state would experience a reduction in payments—potentially totaling hundreds of millions of dollars annually.

#### Expansion of Gambling at Card Rooms and Racetracks

**Net Win Payments.** If the tribes do not agree to revise their compacts within the time required, specific card rooms and horse racing tracks would be authorized to operate up to 30,000 slot machines. These entities would pay 30 percent of the net win to the GRTF. The amount of these payments would depend on the number of slot machines in operation and their net win. These revenues could potentially be over \$1 billion annually. These revenues would be provided primarily to local governments to increase funding for child protective, police, and firefighting services.

**Additional Payments to Local Governments.** Also under this scenario, the cities in which these establishments are located would collectively receive payments in the high tens of millions of dollars (2 percent of the net win). Counties in which these establishments are located would collectively receive payments of half of this amount (1 percent of the net win). The use of these funds is not restricted.

**Increased Taxable Economic Activity.** If the tribes do not agree to the requirements of this measure, the expansion of gambling at card rooms and racetracks could result in an overall increase in the amount of taxable economic activity in California. This would occur if, over time, there was a large diversion of gambling activity and associated spending from other states to California. This would also be the case to the extent that the gambling authorized by this measure replaced existing tribal gambling activities (since much tribal activity is exempt from state taxation). This additional gambling-related activity would lead to an unknown increase in state and local tax revenues.

## NON-TRIBAL COMMERCIAL GAMBLING EXPANSION. TRIBAL GAMING COMPACT AMENDMENTS. REVENUES, TAX EXEMPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

### ARGUMENT in Favor of Proposition 68

Can we share some straight talk?

Indian casinos are earning between \$5 Billion and \$8 Billion per year through a monopoly granted to them by the state of California. Under this monopoly, only Indian casinos can operate slot machines in California. But while the rest of us pay taxes on what we earn, the tribes pay almost nothing on their Billions of earnings—even though they use the same roads, schools, police, and fire and emergency medical services that we all pay for.

Last year, one Indian Casino alone had a slot machine profit of over \$300 million and paid no taxes.

It's time Indian Casinos paid their Fair Share.

In Connecticut and New York, Indian casinos pay the state up to a 25% Fair Share of their winnings in exchange for keeping their monopolies.

Proposition 68 says to the Indian Tribes: *You can keep your monopoly on slot machines, but only if you pay a 25% Fair Share like the Indian Casinos in Connecticut and New York.*

The 25% Fair Share would go to pay for local police and fire services and local programs for abused, neglected, and foster children. The Tribes would also be required to comply with the same political campaign contribution and environmental protection laws that all of us already must comply with.

Proposition 68 actually gives the Indian casinos a choice: If they pay their Fair Share, they keep their monopoly on slot machines. But if they don't, the state will also grant rights to a limited number of locations where gaming already exists.

The Indians would keep operating their slots, but they'd get a little competition. A limited number of card clubs and horseracing tracks *where gaming already exists* would be allowed to add slot machines to their existing games.

These card clubs and horseracing tracks are located in the cities of: Arcadia, Bell Gardens, Commerce, Compton, Cypress, Gardena, Hawaiian Gardens, Inglewood, and Oceanside in Southern California and in the cities of Albany, Colma, Pacheco, San Bruno, and San Mateo in Northern California. Unlike Indian casinos, the card clubs and racetracks would pay 33% of their revenues from the slot machines to local government.

With California's current budget crisis, we need the money.

According to the state's former Legislative Analyst, Bill Hamm, Proposition 68 will generate nearly \$2 Billion every year—monies that will be sent directly to all local governments around the state with all communities benefiting equally.

It isn't fair that the tribes can build casinos wherever they want and make Billions of dollars through a monopoly granted by the state without paying taxes or a Fair Share like the rest of us.

*But Proposition 68 is fair.* It doesn't take any rights away from the Indian Casinos. But it says that if Indian Casinos won't pay a Fair Share to support local public services like all of us, then they can't keep a state monopoly to themselves. You can't have it both ways.

It's time for the Indian Casinos to pay their Fair Share. We urge you to Vote YES on Proposition 68.

LEE BACA, Sheriff

County of Los Angeles

LOU BLANAS, Sheriff

County of Sacramento

ROY BURNS, President

Association of Los Angeles Deputy Sheriffs (ALADS)

### REBUTTAL to Argument in Favor of Proposition 68

Proposition 68's promoters—card clubs and race-tracks—are using a bait-and-switch scheme. They want voters to think 68 is about “making the Indian tribes pay their fair share.” It's not.

It's really a deceptive attempt to change California's Constitution to create huge Las Vegas-size commercial casinos on non-Indian lands throughout California.

*In fact, the very organizations Prop. 68 promoters claim to help, overwhelmingly reject this deceptive measure:*

- Taxpayer groups OPPOSE Prop. 68 because IT WILL HURT—NOT HELP—THE STATE'S BUDGET—not one dollar will go to reduce the state's deficit, and 68 exempts its promoters from paying any future state and local tax increases.
- The California Police Chiefs Association, California State Firefighters Association, the California District Attorneys Association, and more than 30 County Sheriffs OPPOSE because Prop. 68 means MORE CRIME AND HIGHER LAW ENFORCEMENT COSTS. Prop. 68 would place HUGE NEW CASINOS on non-Indian lands in our cities and suburbs—

30,000 new slot machines NEAR MORE THAN 200 SCHOOLS.

- Education leaders and child advocates OPPOSE because Prop. 68 WILL END UP COSTING OUR SCHOOLS MILLIONS, hurting our kids.

- Public safety and local government leaders OPPOSE because Prop. 68 means MORE TRAFFIC CONGESTION on already overcrowded freeways and surface streets.

Please join Governor Schwarzenegger, law enforcement, firefighters, educators, parents, Indian tribes, business, labor, seniors, local government, environmentalists, and taxpayer groups, and VOTE NO ON 68.

STOP THE DECEPTIVE GAMBLING PROPOSITION. It's a bad deal for all Californians.

Please VOTE NO on PROPOSITION 68.

CARLA NIÑO, President

California State PTA

DAVID W. PAULSON, President

California District Attorneys Association

MIKE SPENCE, President

California Taxpayers Protection Committee

**NON-TRIBAL COMMERCIAL GAMBLING EXPANSION.  
TRIBAL GAMING COMPACT AMENDMENTS. REVENUES, TAX EXEMPTIONS.  
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

PROP

**68**

**ARGUMENT Against Proposition 68**

*Message from Governor Arnold Schwarzenegger: "I am officially opposed to Proposition 68, and I strongly urge you to VOTE NO."*

This measure is not what it seems. While proponents claim the measure will force Indian gaming tribes to pay their fair share to the state, Proposition 68 does nothing of the sort.

Proposition 68 is not a guaranteed source of revenues for California from Indian gaming tribes. Instead it authorizes 16 new Las Vegas-style casinos to be built in urban areas throughout California.

Governor Schwarzenegger has a vision for California that does NOT include making our state the next pot of gold for commercial casino gambling interests. Governor Schwarzenegger believes casino gaming should be limited to Indian lands.

THE NEW AGREEMENTS GOVERNOR SCHWARZENEGGER NEGOTIATED WITH MANY INDIAN GAMING TRIBES ARE A WINNER FOR TRIBES AND TAXPAYERS. These agreements keep California's promise to Indian tribes while making them pay their fair share. They promote cooperation between tribes and local governments to deal with the impact on law enforcement, traffic congestion, and road construction. Unfortunately, Proposition 68 could destroy these new agreements.

The 16 new casinos authorized by Proposition 68 are located in urban areas of California. They will be near 200 schools and major streets and freeways in Los Angeles, the San Francisco Bay Area and San Diego, further congesting our crowded roads.

NOT A SINGLE PENNY FROM THIS INITIATIVE CAN BE USED TO HELP BALANCE THE STATE BUDGET. Further, the promoters of Proposition 68 have written it so they are exempt from paying any future increases in state and local taxes.

GOVERNOR SCHWARZENEGGER JOINS MORE THAN 400 PUBLIC SAFETY, TAXPAYER, AND OTHER LEADERS IN SAYING:

**VOTE NO ON 68**

California Police Chiefs Association, California State Firefighters' Association, California Coalition of Law

Enforcement Associations, California District Attorneys Association, More than 50 California Indian Tribes, State Treasurer Phil Angelides, State Controller Steve Westly, Superintendent of Public Instruction Jack O'Connell, Crime Victims United of California, Peace Officers Research Association of California, Sierra Club California, California School Boards Association, The Seniors Coalition, Prevent Child Abuse California, California Taxpayer Protection Committee.

**AND 34 COUNTY SHERIFFS:**

• Sheriff James Allen • Sheriff Terry Bergstrand • Sheriff Virginia Black • Sheriff Ed Bonner • Sheriff Bob Brooks • Sheriff Bill Cogbill • Sheriff Anthony Craver • Sheriff John Crawford • Sheriff Jim Denney • Sheriff Bob Doyle • Sheriff Robert Doyle • Sheriff Bill Freitas • Sheriff Curtis Hill • Sheriff William Kolender • Sheriff Dan Lucas • Sheriff Ken Marvin, Ret. • Sheriff Scott Marshall • Sheriff Rodney Mitchell • Sheriff Bruce Mix • Sheriff Daniel Paranick • Sheriff Clay Parker • Sheriff Gary Penrod • Sheriff Charles Plummer • Sheriff Jim Pope • Sheriff Ed Prieto • Sheriff Michael Prizmich • Sheriff Perry Reniff • Sheriff Richard Rogers • Sheriff Warren Rupf • Sheriff Robert Shadley, Jr. • Sheriff Gary Simpson • Sheriff Gary Stanton • Sheriff Mark Tracy • Sheriff Dean Wilson.

**PROP. 68 WOULD RESULT IN A HUGE EXPANSION OF CASINO GAMBLING ON NON-INDIAN LANDS.**

It's a sweetheart deal for the gambling interests behind it, another broken promise to Indian tribes, and a bad deal for the rest of us.

**VOTE NO ON 68. STOP THE DECEPTIVE GAMBLING PROPOSITION.**

ARNOLD SCHWARZENEGGER, *Governor*

*State of California*

JEFF SEDIVEC, *President*

*California State Firefighters' Association*

WAYNE QUINT, JR., *President*

*California Coalition of Law Enforcement Associations*

**REBUTTAL to Argument Against Proposition 68**

"[Arnold Schwarzenegger] wants to renegotiate gaming compacts with casino-operating Indian tribes in the hopes of getting tribes to share revenue with the state. He noted tribes pay Connecticut 25 percent of their revenues, and said such an arrangement could pay for 'thousands of police officers, thousands of teachers.'"

—*Sacramento Bee*, Sept. 24, 2003

We agreed then and we agree now. It makes zero sense for the overwhelming majority of Indian casinos—a \$6–\$8 billion industry—to operate in California while paying virtually nothing to support the common good.

It's time for these immensely profitable Indian casinos to give something back to the state that has given them the most lucrative gaming monopoly in history. It's time for the people of California to get their fair share.

Proposition 68 isn't a blank check for the politicians in Sacramento. It requires a real and meaningful fair share payment that must be used to hire local police and

sheriffs, keep local fire stations open, and fund proven educational programs for abused and neglected children.

To make sure it's truly fair, we give the Indian casinos the final choice. They choose to make this 25% contribution—just as they do in New York and Connecticut. Otherwise, the state will allow limited and highly regulated competition with an even bigger financial return to California's communities.

Before you make your decision, please read the initiative. We think you'll agree: it's time the Indian casinos did the right thing. And pay their fair share.

LEE BACA, *Sheriff*

*County of Los Angeles*

LOU BLANAS, *Sheriff*

*County of Sacramento*

ROY BURNS, *President*

*Association of Los Angeles Deputy Sheriffs (ALADS)*



# TEXT OF PROPOSED LAWS

## Proposition 67 (cont.)

poses by a statute passed in each house by rollcall vote entered in the journal, four-fifths of the membership concurring.

### SECTION 11. *Operative Date*

This act shall become effective immediately upon its adoption by the people, however it shall not become operative until January 1 in the year following its adoption.

### SECTION 12. *Severability*

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable. In addition, the provisions of this act are intended to be in addition to and not in conflict with any other initiative measure that may be adopted by the people at the same election, and the provisions of this act shall be interpreted and construed so as to avoid conflicts with any such measure whenever possible. In the event the distribution of funds from any of the accounts established by subdivision (c), (d), (e), (f), or (g) of Section 41135 of the Revenue and Taxation Code is permanently enjoined or invalidated by final judicial

action that is not subject to appeal, the funds in any such account shall be continuously transferred to all other accounts in the 911 Emergency and Trauma Care Fund on the same basis as funds are allocated to such accounts by Section 41135 of the Revenue and Taxation Code. Funds remaining in the account shall be allocated as many times as necessary to reduce the account balance to ten thousand dollars (\$10,000) or less.

### SECTION 13. *Conformity with State Constitution*

SEC. 13.1. Section 14 is added to Article XIII B of the California Constitution, to read:

*SEC. 14. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the 911 Emergency and Trauma Care Fund created by the 911 Emergency and Trauma Care Act. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the 911 Emergency and Trauma Care Fund. The surcharge created by the 911 Emergency and Trauma Care Act shall not be considered General Fund revenues for the purposes of Sections 8 and 8.5 of Article XVI.*

## Proposition 68

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends provisions of, and adds sections to, the California Constitution and the Business and Professions Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### THE GAMING REVENUE ACT OF 2004

##### SECTION 1. Title.

This act shall be known as and may be cited as the "Gaming Revenue Act of 2004." This act may also be cited as the "Gaming Revenue Act" or the "act."

##### SEC. 2. Findings and Purpose.

The people of the State of California hereby make the following findings and declare that their purpose in enacting this act is as follows:

(a) California now faces an unprecedented budget deficit of billions of dollars that particularly threatens funding for education, police protection, and fire safety. As a result of California's budget crisis, the state needs to find new ways to generate revenues without raising taxes. In March 2000, Proposition 1A was enacted, which triggered an unprecedented expansion of Indian casino gaming, gave Indian tribes a monopoly on casino gaming, and has led to billions of dollars in profits for Indian tribes, but little or no taxes to the state. Moreover, local governments and communities have not been adequately protected, the state does not have sufficient regulation and oversight of tribal casino gaming, and tribal casinos have not complied with state laws applicable to other businesses and designed to protect California citizens, such as laws regarding the environment and political contributions. Gaming tribes also have failed to fully fund a trust fund to promote the welfare of Indian tribes that do not operate large casinos. Some Indian tribes have attempted to acquire land far away from their reservations or traditional lands to be used as casinos and not for use as traditional reservations. Tribes have expended over one hundred twenty million dollars (\$120,000,000) in political contributions but have refused to comply with disclosure requirements.

(b) California should request that all Indian gaming tribes voluntarily share some of their gaming profits with the state that can be used to support public education, and local police and fire services, and address other problems associated with tribal casino gaming, and in the event all Indian gaming tribes do not do so, California should grant gaming rights to other persons who will share substantial revenue with the state that can be used to support public education and local police and fire services.

(c) The Governor should be authorized to negotiate amendments to all existing compacts with Indian tribes to allow these Indian tribes to continue to have the exclusive right to operate gaming devices in the State of California if the Indian tribes agree to pay 25 percent of their winnings from such devices to a gaming revenue trust fund and agree to comply with state laws, including laws governing environmental protection, gaming regulation, and campaign contributions and their public disclosure.

(d) In the event all Indian tribes with existing compacts do not agree to these terms, five existing horse racing tracks and 11 existing gambling establishments, where forms of legal gambling and wagering already occur, should have the right to operate a limited number of gaming devices, provided they pay 33 percent of their winnings from the operation of such gaming devices to cities, counties, and a gaming revenue trust fund to be used for education, and police and fire services, and provided they comply with strict legal requirements on the operation and location of such gaming devices.

(e) In addition to paying substantial taxes, the owners of gambling establishments and horse racing tracks authorized to operate gaming devices would have to be licensed by the California Gambling Control Commission under the Gambling Control Act, which requires that they be persons of good character, honesty, and integrity, and persons whose prior activities, reputation and associations entitle them to receive a license from the state.

(f) Permitting five existing horse racing tracks and 11 licensed gambling establishments to operate gaming devices and requiring them to pay 33 percent of their winnings from these gaming devices will generate revenues estimated to exceed one billion dollars (\$1,000,000,000) annually. These funds will help alleviate California's dire fiscal crisis, which particularly threatens funding for education, police protection, and fire safety, and will help mitigate the impact on cities and counties where gaming occurs.

(g) The Gaming Revenue Act will establish the Gaming Revenue Trust Fund, the sole purpose of which will be to ensure that the revenues raised by this act are distributed in accordance with the act. The act will also establish a board of trustees consisting of individuals who are engaged in public school education, law enforcement, and fire protection.

(h) The Gaming Revenue Act will provide funding for the existing Division of Gambling Control and the existing California Gambling Control Commission for the purpose of regulating gaming authorized by this act.

(i) The Gaming Revenue Act will increase the moneys distributed to non-gaming Indian tribes by guaranteeing that each such tribe will receive at least one million two hundred thousand dollars (\$1,200,000) annually, and will award three million dollars (\$3,000,000) annually to responsible gambling programs.

(j) The Gaming Revenue Act Trust Fund will distribute 50 percent of the net revenues directly to county boards of education to be used to improve educational services for abused and neglected children and children in foster care.

(k) The Gaming Revenue Act Trust Fund will distribute 35 percent of the net revenues directly to local governments for additional neighborhood sheriffs and police officers.

(l) The Gaming Revenue Act Trust Fund will distribute 15 percent of the net revenues directly to local governments for additional firefighters.

(m) The revenues generated for county offices of education for improving the educational outcomes of abused and neglected children and children in foster care and local governments for police protection and fire safety by this act are not to be used as substitute funds but rather shall supplement the total amount of money allocated for county offices of education and local governments.

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(n) Indian tribes have attempted to acquire land at locations off of their reservations or distant from their traditional Indian lands to be used solely as casinos and not for use as traditional reservations. Gaming on these newly acquired lands would be detrimental to the surrounding communities. Therefore, the Gaming Revenue Act prohibits the location of gaming establishments by Indian tribes on newly or recently acquired lands.

(o) In order to reasonably restrict the growth of non-Indian gaming, non-Indian gaming authorized by this act will be limited to the sites of five existing horse racing tracks located in the Counties of Alameda, Los Angeles, Orange, and San Mateo, and the sites of 11 existing gambling establishments located in the Counties of Los Angeles, San Diego, Contra Costa, and San Mateo. To ensure that there are no new gambling establishments other than those in existence as of the enactment of the act, the current limitation on the issuance of new gambling licenses, which expires in 2007, will be made permanent. The purpose of such restriction is to exercise control over the proliferation of gambling.

(p) The expansion of Indian gaming has led to conflicts between tribes and local governments. In some cases, tribes have failed to take sufficient steps to address local concerns and impacts. Therefore, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to enter into good faith negotiations with county and city governments to address and mitigate community impacts.

(q) To clarify legal jurisdiction over Indian casinos, state courts should have jurisdiction over any criminal or civil proceeding arising under this act, under a compact, or related to a tribal casino. Therefore, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree that state courts will have jurisdiction over such disputes.

(r) Indian tribes have used their gambling profits to spend well over one hundred twenty million dollars (\$120,000,000) on campaign contributions and political activities in California. But some Indian tribes maintain that they are sovereign nations and do not have to comply with California's laws and regulations relating to political contributions and reporting. Because these tribal political expenditures result substantially from, and often concern, gaming activities in California, this act will authorize the Governor to negotiate amendments to all existing compacts pursuant to which all tribes agree to comply with the California Political Reform Act.

(s) While some terms of this act concern conditions tribal casinos must meet if Indian tribes are to retain a monopoly over slot machines, it is the express intent of the voters to raise revenues immediately through this initiative to help solve California's current fiscal crisis, regardless of whether those revenues come from tribal or non-tribal gaming, regardless of court decisions regarding Indian gaming, regardless of changes in federal law, or regardless of any challenges or efforts by the Indian tribes or others to delay or circumvent this act. Therefore, if all Indian tribes with existing compacts do not agree to share with the state 25 percent of their winnings from gaming devices and do not agree to the other conditions on tribal gaming set forth in this act within the time limits provided in this act, it is the express intent of the voters to immediately allow licensed gambling establishments and authorized horse racing tracks to operate a limited number of gaming devices, provided they pay 33 percent of their winnings from the operation of such gaming devices to cities, counties, and the Gaming Revenue Trust Fund.

SEC. 3. Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of ~~slot machines~~ gaming devices and for the conduct of lottery games and banking and percentage card games by federally recognized Indian

tribes on Indian lands in California in accordance with federal law. Accordingly, ~~slot machines~~ gaming devices, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

(h) Notwithstanding subdivisions (e) and (f), and any other provision of state law, the Governor is authorized to negotiate and conclude amendments to all existing compacts with all Indian tribes in accordance with the provisions of this subdivision. An "existing compact" means a gaming compact entered into between the State and an Indian tribe prior to the effective date of the Gaming Revenue Act of 2004. All compacts amended pursuant to this subdivision shall include the following terms, conditions, and requirements:

(1) The Indian tribe shall agree to pay 25 percent of its net win from all gaming devices operated by it or on its behalf to the Gaming Revenue Trust Fund. Such payments shall be made monthly and shall be due within 30 days of the end of each month. "Net win" means the wagering revenue from all gaming devices operated by the Indian tribe or on its behalf retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses. Such payments shall commence immediately after federal approval of the amended compact.

(2) The Indian tribe shall agree to report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of it. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.

(3) The Indian tribe shall agree to pay for an annual audit performed by an independent firm of certified public accountants approved by the California Gambling Control Commission to ensure that the net win is properly reported and the payment is properly paid to the Gaming Revenue Trust Fund. The audit report shall be available to the public upon request.

(4) The Indian tribe shall agree to comply with the California Political Reform Act.

(5) The Indian tribe shall agree that its casino facilities shall comply with the California Environmental Quality Act.

(6) The Indian tribe shall agree to enter into good faith negotiations with any city or county within which the Indian lands are located where class III gaming is conducted to mitigate local gaming-related impacts within a reasonable time following the State's execution of the compact. The state courts shall have exclusive jurisdiction to resolve any dispute regarding the failure to reach an agreement or the enforcement of the agreement.

(7) The Indian tribe shall agree to comply with all provisions of the Gambling Control Act, and shall agree to be subject to the jurisdiction of the California Gambling Control Commission and Division of Gambling Control.

(8) The Indian tribe shall agree that state courts shall have exclusive jurisdiction over any criminal or civil proceeding arising from or related to the Gaming Revenue Act, arising from or related to the compact, or arising from or related to any act or incident occurring on the premises of a tribal casino.

The powers of the State and the applicability of state law to Indian tribes and Indian casinos pursuant to this subdivision are to be construed consistently with the fullest extent of State's rights and powers under federal law to reach agreements with Indian tribes with tribal consent. No tribe with an existing compact is required by this subdivision to agree to amend its existing compact. Nothing in the Gaming Revenue Act of 2004 waives or restricts the civil or criminal jurisdiction of the State under Public Law 280 (18 U.S.C. Sec. 1162), and the State may not waive such jurisdiction in any compacts.



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(i) Notwithstanding subdivisions (a) and (e), and any other provision of state or local law, in the event amendments to all existing compacts with all Indian tribes, as provided in subdivision (h), are not entered into and submitted to the Secretary of the Interior within 90 days of the effective date of the Gaming Revenue Act of 2004, owners of authorized gambling establishments and owners of authorized horse racing tracks shall immediately thereafter be authorized to operate not more than a combined total of 30,000 gaming devices. In the event tribal monopolies are adjudicated to be illegal, in the event the amended compacts are not approved or considered approved pursuant to the Indian Gaming Regulatory Act, or in the event subdivision (h) is invalidated, or delayed more than 90 days after this act would otherwise take effect, by the State, the federal government, or any court, owners of authorized gambling establishments and owners of authorized horse racing tracks shall immediately thereafter be authorized to operate the gaming devices authorized by this section. For purposes of this act, "authorized gambling establishment" shall mean a site in the Counties of Los Angeles, San Diego, Contra Costa, or San Mateo at which 14 or more gaming tables were authorized to be operated as of September 1, 2003, pursuant to the Gambling Control Act, except such sites that were actually taken into trust for an Indian tribe or Indians after September 1, 2003. For purposes of the Gaming Revenue Act of 2004, "authorized horse racing track" shall mean a site in the Counties of Alameda, Los Angeles, Orange, or San Mateo at which horse racing was conducted by a thoroughbred racing association or quarter horse racing association that was licensed pursuant to the Horse Racing Law to conduct more than 50 days or nights of racing in 2002. For purposes of the Gaming Revenue Act of 2004, "site" shall mean the real property on which an authorized horse racing track or an authorized gambling establishment was located as of September 1, 2003, and shall include real property adjacent to the site. The operation of these gaming devices shall be subject to the following provisions:

(1) Payments.

(A) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 30 percent of the net win from gaming devices operated by them to the Gaming Revenue Trust Fund created pursuant to this section. Such payments shall be made monthly and shall be due within 30 days of the end of each month. "Net win" means the wagering revenue from gaming devices operated pursuant to the Gaming Revenue Act of 2004, retained after prizes or winnings have been paid to players or to pools dedicated to the payment of such prizes and winnings, and prior to the payment of operating or other expenses.

(B) Owners of authorized gambling establishments and authorized horse racing tracks shall report to the Division of Gambling Control the net win on all gaming devices operated by or on behalf of them. Such reports shall be submitted monthly, shall be due within 30 days of the end of each month, and shall be available to the public upon request.

(C) Owners of authorized gambling establishments and authorized horse racing tracks shall pay for an annual audit performed by an independent firm of certified public accountants approved by the California Gambling Control Commission to ensure that the net win is properly reported and the payment is properly paid to the Gaming Revenue Trust Fund. The audit report shall be available to the public upon request.

(D) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 2 percent of their respective net win from gaming devices operated by them to the city in which each authorized horse racing track and authorized gambling establishment is located. In the event an authorized gambling establishment or an authorized horse racing track is not located within the boundaries of a city, the payment imposed by the Gaming Revenue Act of 2004, shall be made to the county in which the authorized gambling establishment or authorized horse racing track is located. Such payments shall be made monthly and shall be due within 30 days of the end of each month.

(E) Owners of authorized gambling establishments and authorized horse racing tracks shall pay 1 percent of their respective net win from gaming devices operated by them to the county in which each authorized gambling establishment and authorized horse racing track is located. Such payments shall be made monthly and shall be due within 30 days of the end of each month.

(2) Number and Location of Authorized Gaming Devices.

(A) A total of 30,000 gaming devices are authorized to be operated by owners of authorized horse racing tracks and owners of authorized gambling establishments, which are allocated as follows:

(i) For authorized horse racing tracks:

Three thousand gaming devices for each authorized horse racing track. In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, in the event that the owners of an authorized horse racing track for any reason cease to have or lose the right to operate any of the gaming devices authorized by the Gaming Revenue Act of 2004, the gaming devices allocated to that authorized horse racing track shall be reallocated equally among the remaining authorized horse racing tracks. Notwithstanding the limit of 3,000 gaming devices, owners of authorized horse racing tracks may also transfer, sell, license, or assign their rights to own and operate one or more gaming devices to other authorized horse racing tracks or authorized gambling establishments, but in no event shall the total number of gaming devices authorized to be operated at an authorized horse racing track exceed 3,800. The owners of gaming devices that are reallocated, or are transferred, sold, licensed, or assigned pursuant to this clause shall make the distributions required by Section 19609 of the Business and Professions Code.

(ii) For authorized gambling establishments:

(I) Authorized gambling establishments located in Los Angeles County authorized as of September 1, 2003, to operate 100 or more gaming tables shall be authorized to operate 1,700 gaming devices each; authorized gambling establishments in Los Angeles County authorized as of September 1, 2003, to operate between 14 and 99 gaming tables shall be authorized to operate 1,000 gaming devices each; and all other authorized gambling establishments shall be authorized to operate 800 gaming devices each.

(II) Licensed gambling establishments that are not authorized gambling establishments under this section shall be licensed for four gaming devices for each table authorized pursuant to the Gambling Control Act as of September 1, 2003, up to a maximum of 2,000 gaming devices in total, which they cannot operate at their gambling establishments, but may transfer, sell, or assign the rights to own or operate such gaming devices to authorized gambling establishments.

(III) In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, in the event the owners of an authorized gambling establishment described in subclause (I) for any reason cease to have or lose the right to operate any of the gaming devices authorized by the Gaming Revenue Act of 2004, these gaming devices shall be transferred or allocated to authorized gambling establishments pro rata according to the allocation in subclause (I). Notwithstanding the limitation on gaming devices imposed by subclause (I), authorized gambling establishments may also transfer, sell, license, or assign their rights to own and operate one or more gaming devices to other authorized gambling establishments or authorized horse racing tracks, but in no event shall the total number of gaming devices authorized to be operated at an authorized gambling establishment exceed 1,900.

(IV) In the event that the allocation of gaming devices set forth in clause (ii) exceeds 15,000, the gaming devices authorized pursuant to subclause (II) shall be reduced ratably to bring the total number of gaming devices allocated to all authorized gambling establishments to 15,000 or less.

(B) The owners of an authorized horse racing track may, in accordance with provisions of applicable law, relocate its racing meeting to another site whether or not it is an authorized horse racing track, or discontinue its racing operation. In the event they do so, however, the gaming devices authorized to be operated by them may only be operated at an authorized horse racing track or an authorized gambling establishment.

(C) In order to ensure the maximum generation of revenue for the Gaming Revenue Trust Fund, the owner or operator of an authorized horse racing track and the owner or operator of an authorized gambling establishment whose facilities are located in the same city may agree upon the maximum number of gaming devices that may be operated at each such facility, subject to approval of any such agreement by the California Gambling Control Commission, which shall make its decision of whether to approve any such agreement based upon a determination that any such agreement is in the interests of regulated gaming in the State of California. Any such agreement approved by the California Gambling Control Commission shall not exceed three years in duration.

(3) Suspension of Authorization.

The authorization to operate gaming devices and to transfer, sell, or assign rights to gaming devices pursuant to this subdivision may be suspended by the California Gambling Control Commission for failure to make the payments imposed by this subdivision within 30 days of such payments becoming due.

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### (4) Prohibition on Additional Fees, Taxes, and Levies.

The payments imposed pursuant to the Gaming Revenue Act of 2004 are in lieu of any and all other fees, taxes, or levies, including, but not limited to, revenue, receipt, or personal property taxes, that may be charged or imposed, directly or indirectly, against authorized horse racing tracks or authorized gambling establishments, their patrons, gaming devices, employers, or suppliers, by the State, cities, or counties, excepting fees, taxes, or levies that were in effect and imposed prior to September 1, 2003, that applied to horse racing and controlled games with cards or tiles, or that are applied generally to commercial activities, including sales and use, income, corporate, or real property taxes. The physical expansion of gaming facilities or the operation of gaming devices authorized by the Gaming Revenue Act of 2004 shall not be considered an enlargement of gaming operations under any local ordinance related to fees, taxes, or levies.

### (5) Licenses.

The owners of authorized gambling establishments and the owners of authorized horse racing tracks shall be licensed by the California Gambling Control Commission under the Gambling Control Act.

### (6) Other Laws.

The Gaming Revenue Act of 2004 shall supercede any inconsistent provisions of state, city, or county law relating to gaming devices, including, but not limited to, laws regarding the transportation, manufacture, operation, sale, lease, storage, ownership, licensing, repair, or use of gaming devices authorized in this act. In order to encourage the maximum generation of revenue for the Gaming Revenue Trust Fund, the operation of gaming devices authorized pursuant to the Gaming Revenue Act of 2004 is not subject to any prohibition in state or local law now existing or hereafter enacted.

### (j) Gaming Revenue Trust Fund.

(1) There is hereby established the Gaming Revenue Trust Fund in the State Treasury that shall receive all payments pursuant to the requirements of subdivisions (h) and (i).

(2) There is hereby established the board of trustees to administer the Gaming Revenue Trust Fund. The board of trustees shall be comprised of five members appointed by the Governor. Of the five members, two shall be engaged in public school education, one shall be engaged in law enforcement, one shall be engaged in fire protection, and one shall be a certified public accountant. Each member shall be a citizen of the United States and a resident of this state. No more than three of the five members shall be members of the same political party. Of the members initially appointed, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and one shall be appointed for a term of four years. After the initial terms, the term of office of each member shall be four years. The Governor shall appoint the members and shall designate one member to serve as the initial chairperson. The initial chairperson shall serve as chairperson for the length of his or her term. Thereafter, the chairperson shall be selected by the board of trustees. The initial appointments shall be made within three months of the operative date of the Gaming Revenue Act of 2004. The board of trustees shall approve all transfers of moneys from the Gaming Revenue Trust Fund. The board of trustees shall engage an independent firm of certified public accountants to conduct an annual audit of all accounts and transactions of the Gaming Revenue Trust Fund.

(3) The moneys in the Gaming Revenue Trust Fund shall be distributed as follows:

(A) Not more than 1 percent of the moneys annually to the Division of Gambling Control and the California Gambling Control Commission for the cost of carrying out administrative duties pursuant to the Gaming Revenue Act of 2004, and for reimbursement of any state department or agency that provides any service pursuant to the provisions of the Gaming Revenue Act of 2004.

(B) Moneys sufficient to guarantee that each non-gaming tribe shall receive one million two hundred thousand dollars (\$1,200,000) annually from the Indian Gaming Revenue Sharing Trust Fund as codified in the Government Code. "Non-gaming tribe" shall mean a federally recognized Indian tribe which operates fewer than 350 gaming devices.

(C) Three million dollars (\$3,000,000) to be awarded annually by the board of trustees to responsible gambling programs.

(D) After the distributions required pursuant to subparagraphs (A), (B), and (C), the remaining moneys shall be distributed as follows:

(i) Fifty percent to county offices of education to provide services for abused and neglected children and children in foster care. These moneys shall be allocated to each county office of education according to each county's proportionate share of the annual statewide total of child abuse referral reports for the prior calendar year and shall be used to improve educational outcomes of abused and neglected children and children in foster care. Each county office of education shall allocate these funds to county child protective services agencies to provide these services. Funds received by each county child protective services agency shall be used for the following purposes:

(I) Out-stationing county child protective services social workers in schools.

(II) Providing appropriate caseloads to ensure that professional staff will have sufficient time to provide services necessary to improve the educational outcomes of abused and neglected children and children in foster care.

(III) Providing services to children in foster care to minimize mid-year transfers from school to school.

(IV) Hiring juvenile court workers whose responsibility it is to ensure the implementation of court orders issued by juvenile court judges affecting a foster child's educational performance.

Each county child protective services agency shall be subject to all accountability standards including student performance, enrollment, school stability, and performance measured by the percentage of children at grade level on standardized tests, as provided by state and federal law. Each county child protective services agency shall use funds received pursuant to this section in a manner that maximizes the counties' ability to obtain federal matching dollars for services to children in the child protective services system.

(ii) Thirty-five percent to local governments on a per capita basis for additional neighborhood sheriffs and police officers.

(iii) Fifteen percent to local governments on a per capita basis for additional firefighters.

(k) The Governor shall not consent, concur, or agree to the location of any tribal casinos on newly acquired land pursuant to 25 U.S.C. Sec. 2719(b)(1)(A). Further, any compact entered into by the State pursuant to 25 U.S.C. Sec. 2710(d) shall only be for class III gaming on Indian lands actually taken into trust by the United States for the benefit of an Indian tribe prior to September 1, 2003, except for land contiguous to reservations existing as of that date.

SEC. 4. Section 19609 is added to the Business and Professions Code, to read:

19609. (a) Unless otherwise defined in this chapter, the terms used in this section shall have the meaning ascribed to them in the Gaming Revenue Act of 2004 ("the act").

(b) Three-quarters of 1 percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed for thoroughbred incentive awards and shall be payable to the applicable official registering agency and thereafter distributed as provided in the California Horse Racing Law.

(c) One and one-half percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be distributed to each of those thoroughbred racing associations and racing fairs that are not authorized horse racing tracks in the same relative proportions that such thoroughbred racing associations or racing fairs generated commissions during the preceding calendar year. A lessee of an authorized horse racing track as of the effective date of the act shall not be deemed to be an authorized horse racing track for the purposes of this section.

(d) Seventeen and three-quarters percent of the net win from all gaming devices operated by, or on behalf of, owners of authorized horse racing tracks upon which a thoroughbred racing meeting was conducted in 2002 shall be pooled ("the pooled net win") and shall be distributed in the form of purses for thoroughbred horses in accordance with the provisions of this subdivision.

(I) The pooled net win shall be allocated to thoroughbred racing associations and racing fairs throughout the State of California and shall be distributed among each of them in such manner as to equalize on an average daily basis purses for thoroughbred races other than stakes and special events. Notwithstanding the foregoing, pooled net win may be allocated to supplement purses for thoroughbred races so the thoroughbred racing associations and racing fairs may maintain



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up to their historic relative proportions between overnight races, and stakes races and special events. Increases in the aggregate amount of purses for stakes races of thoroughbred racing associations and racing fairs resulting from pooled net win contributions shall be determined in accordance with an agreement signed by all the thoroughbred racing associations and the organization responsible for negotiating thoroughbred purse agreements on behalf of thoroughbred horsemen.

(2) Notwithstanding the provisions of paragraph (1), the funds distributable to thoroughbred racing associations and racing fairs from the pooled net win shall be allocated in such a manner as to cause average daily purses for thoroughbred races, other than stakes races and special events, to be the percentages of the average daily purses for such races conducted by thoroughbred racing associations in the central and southern zone as set forth below:

(A) Ninety percent for thoroughbred racing associations in the northern zone;

(B) Sixty-five percent for a racing fair in the central zone;

(C) Fifty percent for racing fairs in the northern zone other than the Humboldt County Fair;

(D) Seven and one-half percent for the Humboldt County Fair.

(3) Notwithstanding the provisions of this subdivision to the contrary, the allocation of purses among the thoroughbred racing associations and the racing fairs may be altered upon approval of the California Horse Racing Board, in accordance with an agreement signed by all of the thoroughbred racing associations and the organization responsible for negotiating thoroughbred purse agreements on behalf of horsemen.

(4) The California Horse Racing Board shall be responsible for the oversight of the distribution of the pooled net win in accordance with the provisions of this subdivision.

(e) Eighteen and one-half percent of the net win from all gaming devices operated by owners of an authorized horse racing track upon which a quarter horse racing meeting was conducted in 2002 shall be paid to supplement purses of races conducted by a quarter horse racing association.

(f) One and four-tenths percent of the net win from gaming devices operated by owners of an authorized horse racing track described in subdivision (e) shall be paid to supplement the purses of harness races conducted by a harness racing association that conducts at least 150 days or nights of harness racing annually at the California Exposition and State Fair, and one-tenth of 1 percent of such net win shall be paid to the harness racing association described in this subdivision.

SEC. 5. Section 19805.5 is added to the Business and Professions Code, to read:

19805.5. As used in this chapter, and in the Gaming Revenue Act of 2004, "gaming device" shall mean and include a slot machine, under state law, or any class III device under the Indian Gaming Regulatory Act. The operation of a gaming device by a tribe, entity, or person authorized to operate gaming devices under the Gaming Revenue Act shall constitute controlled gaming under state law.

SEC. 6. Section 19863 of the Business and Professions Code is amended to read:

19863. A publicly traded racing association or a qualified racing association, or their successors in interest, shall be allowed to operate only one gaming gambling establishment, and the gaming gambling establishment shall be located on the same premises site as the entity's racetrack was located in 2002.

SEC. 7. Section 19985 is added to the Business and Professions Code, to read:

19985. (a) Except as provided in this section, the Gambling Control Act, including, but not limited to, the jurisdiction and powers of the division and commission to enact regulations, to enforce applicable law, to conduct background investigations, and to issue licenses and work permits, shall apply to authorized horse racing tracks, as defined in the Gaming Revenue Act, and to the operators of gaming devices thereon, including their successors in interest, in and to the same extent the Gambling Control Act applies to gambling establishments.

(b) Employees of authorized horse racing tracks who are not owners, shareholders, partners, or key employees, and whose job responsibilities do not involve controlled games, shall not be required to obtain work permits pursuant to this chapter.

SEC. 8. Section 19962 of the Business and Professions Code is amended to read:

19962. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) ~~Am~~ No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may ~~not~~ be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section ~~shall remain operative only until January 1, 2010, and as of that date is repealed~~ is not intended to prohibit gaming authorized by the Gaming Revenue Act of 2004.

SEC. 9. Section 19963 of the Business and Professions Code is amended to read:

19963. ~~(a)~~ In addition to any other limitations on the expansion of gambling imposed by Section 19962 or any provision of this chapter, and except as provided in the Gaming Revenue Act of 2004, the commission ~~may~~ shall not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

~~(b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 10. Section 19817 of the Business and Professions Code is amended to read:

19817. The commission shall establish and appoint a Gaming Policy Advisory Committee of 10 members. The committee shall be composed of representatives of controlled gambling licensees, authorized horse racing tracks under the Gaming Revenue Act, representatives of gaming tribes, and members of the general public ~~in equal numbers~~. The executive director shall, from time to time, convene the committee for the purpose of discussing matters of controlled gambling regulatory policy and any other relevant gambling-related issue. The recommendations concerning gambling policy made by the committee shall be presented to the commission, but shall be deemed advisory and not binding on the commission in the performance of its duties or functions. ~~The committee may not advise the commission on Indian gaming.~~

SEC. 11. Section 12012.6 is added to the Government Code, to read:

12012.6. (a) Notwithstanding Sections 12012.25 and 12012.5, and any other provision of law, the Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the State of California pursuant to the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within this state. Nothing in this section shall be construed to deny the existence of the Governor's authority to have negotiated and executed tribal-state gaming compacts prior to the effective date of this section.

(b) The Governor shall submit a copy of any executed tribal-state compact to the Secretary of State, who shall forward a copy of the executed compact to the Secretary of the Interior for his or her review and approval, in accordance with paragraph (8) of subsection (d) of Section 2710 of Title 25 of the United States Code.

SEC. 12. Section 12012.75 of the Government Code is amended to read:

12012.75. There is hereby created in the State Treasury a special fund called the "Indian Gaming Revenue Sharing Trust Fund" for the receipt and deposit of moneys derived from gaming device license fees that are paid into the fund pursuant to the terms of tribal-state gaming compacts, and moneys received from the Gaming Revenue Trust Fund, for the purpose of making distributions to noncompact tribes. Moneys in the Indian Gaming Revenue Sharing Trust Fund shall be available to the California Gambling Control Commission, upon appropriation by the Legislature, for the purpose of making distributions to noncompact tribes, in accordance with ~~distribution plans specified in the Gaming Revenue Act~~ and tribal-state gaming compacts.

SEC. 13. Section 8.3 is added to Article XVI of the California Constitution, to read:



## Proposition 68 (cont.)

SEC. 8.3. (a) Funds appropriated pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be part of “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B” as that term is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

(b) Revenues derived from payments made pursuant to the Gaming Revenue Act of 2004 shall not be deemed to be “General Fund revenues”, which may be appropriated pursuant to Article XIII B” as that term is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of “per capita General Fund revenues” as that term is used in paragraph (3) of subdivision (b) and in subdivision (e) of Section 8.

SEC. 14. Section 14 is added to Article XIII B of the California Constitution, to read:

SEC. 14. (a) For purposes of this article, “proceeds of taxes” shall not include the revenues created by the Gaming Revenue Act of 2004.

(b) For purposes of this article, “appropriations subject to limitation” of each entity of government shall not include appropriations of revenues from the Gaming Revenue Trust Fund created by the Gaming Revenue Act of 2004.

### SEC. 15. Amendment

The statutory provisions of this act may be amended only by a vote of two-thirds of the membership of both houses of the Legislature. All statutory amendments to this act shall be to further the act and must be consistent with its purposes.

### SEC. 16. Consistency With Other Ballot Measures

The provisions of this act are not in conflict with any initiative measure that appears on the same ballot that amends the California Constitution to authorize gaming of any kind. In the event that this act and another measure that amends the California Constitution to permit gaming of any kind are adopted at the same election, the courts are

hereby directed to reconcile their respective statutory provisions to the greatest extent possible and to give effect to every provision of both measures.

### SEC. 17. Additional Funding

No moneys in the Gaming Revenue Trust Fund shall be used to supplant federal, state, or local funds used for child protective and foster care services, neighborhood sheriffs and police officers, and firefighters but shall be used exclusively to supplement the total amount of federal, state, and local funds allocated for child protective services and foster care which improve the educational outcomes of abused and neglected children and children in foster care and for additional sheriffs, police officers, and firefighters.

### SEC. 18. Judicial Proceedings

In any action for declaratory or injunctive relief, or for relief by way of any extraordinary writ, wherein the construction, application, or validity of Section 3 of this act or any part thereof is called into question, a court shall not grant any temporary restraining order, preliminary or permanent injunction, or any peremptory writ of mandate, certiorari, or prohibition, or other provisional or permanent order to restrain, stay, or otherwise interfere with the operation of the act except upon a finding by the court, based on clear and convincing evidence, that the public interest will not be prejudiced thereby, and no such order shall be effective for more than 15 calendar days. A court shall not restrain any part of this act except the specific provisions that are challenged.

### SEC. 19. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this act are severable.

## Proposition 69

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the Government Code, and amends, repeals, and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### SECTION I. Title

(a) This measure shall be known and referred to as the DNA Fingerprint, Unsolved Crime and Innocence Protection Act.

#### SEC. II. Findings and Declarations of Purpose

The people of the State of California do hereby find and declare that:

(a) Our communities have a compelling interest in protecting themselves from crime.

(b) There is critical and urgent need to provide law enforcement officers and agencies with the latest scientific technology available for accurately and expeditiously identifying, apprehending, arresting, and convicting criminal offenders and exonerating persons wrongly suspected or accused of crime.

(c) Law enforcement should be able to use the DNA Database and Data Bank Program to substantially reduce the number of unsolved crimes; to help stop serial crime by quickly comparing DNA profiles of qualifying persons and evidence samples with as many investigations and cases as necessary to solve crime and apprehend perpetrators; to exonerate persons wrongly suspected or accused of crime; and to identify human remains.

(d) Expanding the statewide DNA Database and Data Bank Program is:

(1) The most reasonable and certain means to accomplish effective crime solving in California, to aid in the identification of missing and unidentified persons, and to exonerate persons wrongly suspected or

accused of crime;

(2) The most reasonable and certain means to solve crime as effectively as other states which have found that the majority of violent criminals have nonviolent criminal prior convictions, and that the majority of cold hits and criminal investigation links are missed if a DNA database or data bank is limited only to violent crimes;

(3) The most reasonable and certain means to rapidly and substantially increase the number of cold hits and criminal investigation links so that serial crime offenders may be identified, apprehended and convicted for crimes they committed in the past and prevented from committing future crimes that would jeopardize public safety and devastate lives; and

(4) The most reasonable and certain means to ensure that California’s Database and Data Bank Program is fully compatible with, and a meaningful part of, the nationwide Combined DNA Index System (CODIS).

(e) The state has a compelling interest in the accurate identification of criminal offenders, and DNA testing at the earliest stages of criminal proceedings for felony offenses will help thwart criminal perpetrators from concealing their identities and thus prevent time-consuming and expensive investigations of innocent persons.

(f) The state has a compelling interest in the accurate identification of criminal offenders, and it is reasonable to expect qualifying offenders to provide forensic DNA samples for the limited identification purposes set forth in this chapter.

(g) Expanding the statewide DNA Database and Data Bank Program is the most reasonable and certain means to ensure that persons wrongly suspected or accused of crime are quickly exonerated so that they may reestablish their standing in the community. Moreover, a person whose sample has been collected for Database and Data Bank purposes must be able to seek expungement of his or her profile from the Database and Data Bank.

SEC. III. DNA and Forensic Identification Database and Data Bank Act